

City Council Agenda Items  
and  
Contracts, Leases or Agreements

8/6/2013

City Council Meeting Date  
Agenda Items Only

Leif Olson *LO*  
Submitted By

Division

Sustainability and Strategic Planning  
Department

Action Required:

Approval of an Agreement of Understanding and authorizing the Mayor to sign additional contracts with the Arkansas Highway and Transportation Department (AHTD) as necessary to utilize \$81,248 in federal-aid funds through the Arkansas Safe Routes to School Program (SRTS) for the construction of a pedestrian bridge along the west side of Salem Road that will connect two pieces of existing sidewalk between Holcomb Elementary and Holt Middle School; and approving a budget adjustment to recognize this revenue.

\$81,248 Cost of this request	\$ - Category / Project Budget	Trail Development Program Category / Project Name
4470.9470.5814.05 Account Number	\$ - Funds Used to Date	Trail Improvements Program / Project Category Name
02016.1304 Project Number	\$ - Remaining Balance	Sales Tax Cap. Imp. Fund Name

Budgeted Item

Budget Adjustment Attached

*[Signature]*  
Department Director

7/17/13  
Date

Previous Ordinance or Resolution # 29-13

*[Signature]*  
City Attorney

7-19-13  
Date

Original Contract Date: Feb. 19, 2013

Original Contract Number:

*Paul A. Buh*  
Finance and Internal Services Director

7-23-2013  
Date

Received in City Clerk's Office 07-19-13 P12:34 RCVD  
*[Signature]*

*[Signature]*  
Chief of Staff

7-22-13  
Date

Received in Mayor's Office

*[Signature]*  
Mayor

7/22/13  
Date

ENTERED  
7/19/13  
PH

Comments:

## CITY COUNCIL AGENDA MEMO

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**To:** Mayor and City Council

**Thru:** Don Marr, Chief of Staff  
Peter Nierengarten, Sustainability and Strategic Planning Director *PN*  
Chris Brown, City Engineer *CB*  
Matt Mihalevich, Trails Coordinator *man*

**From:** Leif Olson, Associate Planner *LO*

**Date:** July 15th, 2013

**Subject:** Agreement of Understanding – Safe Routes to School Grant

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### RECOMMENDATION:

Approval of an Agreement of Understanding and authorizing the Mayor to sign additional contracts with the Arkansas Highway and Transportation Department (AHTD) as necessary to utilize \$81,248 in federal-aid funds through the Arkansas Safe Routes to School Program (SRTS) for the construction of a pedestrian bridge along the west side of Salem Road that will connect two pieces of existing sidewalk between Holcomb Elementary and Holt Middle School; and approving a budget adjustment to recognize this revenue. A willingness to apply for this grant was approved on February 19th of 2013 by resolution 29-13.

### PROPOSAL:

The City of Fayetteville was awarded this grant from the Arkansas Highway and Transportation Department in June of 2013. This grant award will fund the construction of a trail bridge over Clabber Creek at Salem Rd. In addition, AHTD will pay for all necessary geotechnical, hydrologic and structural engineering for the placement of this pedestrian bridge estimated at approximately \$45,000. The City has committed to constructing a section of missing sidewalk totaling 317 linear feet along Salem Road approximately 1,000 feet north of this bridge project. The completion of the SRTS bridge project and the City's sidewalk project will complete the final missing segments creating a safe pedestrian route between Holcomb Elementary and Holt Middle Schools. In the future, this pedestrian bridge will be part of the Clabber Creek Trail which will connect many of the adjacent neighborhoods to these two schools. The completion of the Clabber Creek Trail Phase II is anticipated in 2016.

### BUDGET IMPACT:

The terms of this grant do not require a project match on the part of the City of Fayetteville. The Agreement of Understanding obligates the City to complete the work in a two year time frame.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION AUTHORIZING ACCEPTANCE OF AN ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT SAFE ROUTES TO SCHOOL GRANT IN THE AMOUNT OF \$81,248.00 TO BE UTILIZED FOR CONSTRUCTION OF A PEDESTRIAN BRIDGE ALONG SALEM ROAD CONNECTING HOLCOMB ELEMENTARY AND HOLT MIDDLE SCHOOL, AND APPROVING A BUDGET ADJUSTMENT

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes acceptance of an Arkansas State Highway and Transportation Department Safe Routes to School grant in the amount of \$81,248.00 to be utilized for construction of a pedestrian bridge along Salem Road connecting Holcomb Elementary and Holt Middle School.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A".

**PASSED and APPROVED** this 6<sup>th</sup> day of August, 2013.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk/Treasurer**





## ARKANSAS STATE HIGHWAY COMMISSION

P.O. Box 2261 • LITTLE ROCK, ARKANSAS 72203-2261  
PHONE: (501) 569-2000 • VOICE/TTY 711 • FAX: (501) 569-2400  
WWW.ARKANSASHIGHWAYS.COM

June 13, 2013

JOHN ED REGENOLD  
CHAIRMAN  
*Amorel*

JOHN BURKHALTER, P.E.  
VICE CHAIRMAN  
*Little Rock*

DICK TRAMMEL  
*Rogers*

THOMAS B. SCHUECK  
*Little Rock*

ROBERT S. MOORE, JR.  
*Arkansas City*

SCOTT E. BENNETT, P.E.  
DIRECTOR OF  
HIGHWAYS AND TRANSPORTATION

**Mr. Peter Nierengarten  
Sustainability and Strategic Planning Director  
City of Fayetteville  
125 West Mountain Street  
Fayetteville, AR 72701**

Dear Mr. Nierengarten:

Reference is made to your application for Infrastructure funding through the Arkansas Safe Routes To School (SRTS) Program. Congratulations, your project has been selected to receive \$81,248 in Federal funding for construction of your project.

A project administration workshop will be held at 10:00 a.m. on July 10, 2013, at the Arkansas State Highway and Transportation Department's headquarters building. We are located at Exit 130 on Interstate 30 in southwest Little Rock. The person identified as being in charge of the project must attend this workshop.

We look forward to working with you to help provide a safer bicycling and walking environment for Arkansas' school children. If you should have any questions regarding your project prior to the workshop, please contact Kimberly Sanders at (501) 569-2020.

Sincerely,

Scott E. Bennett  
Director of Highways  
and Transportation

c: Highway Commission  
Deputy Director and Chief Engineer  
Assistant to the Director  
Assistant Chief Engineer – Planning  
Planning and Research  
District 4

**AGREEMENT OF UNDERSTANDING  
FOR AN INFRASTRUCTURE PROJECT  
BETWEEN**

**CITY OF FAYETTEVILLE**

**AND**

**THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT**

In Cooperation with the  
U. S. Department of Transportation  
Federal Highway Administration

RELATIVE TO

Implementation of Job 040663, Fayetteville SRTS I (2012) (hereinafter called the "Project") as an Arkansas Safe Routes To School (SRTS) Program project.

WHEREAS, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users provides 100% Federal-aid funds for certain approved Arkansas SRTS Program projects; and

WHEREAS, the City of Fayetteville (hereinafter called "Sponsor") has expressed its desire to use Federal-aid funds for an eligible project; and

WHEREAS, the Sponsor knows of no legal impediments to the completion of the Project; and

WHEREAS, it is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions of any part of the agreement to create the public or any member thereof a third party beneficiary hereunder or to authorize anyone not a party to this agreement to maintain a suit or action for injuries or damage of any nature pursuant to the terms or provisions of this agreement; and

WHEREAS, it is understood that the Sponsor and the Arkansas State Highway and Transportation Department (hereinafter called the "Department") will adhere to the General Requirements for Recipients and Sub-Recipients Concerning Disadvantaged Business Enterprises (DBEs) (Attachment A).

IT IS HEREBY AGREED that the Sponsor and the Department, in cooperation with the Federal Highway Administration, will participate in a cooperative program for implementation of the project and will accept the responsibilities and assigned duties as described hereinafter.



THE SPONSOR WILL:

1. Before acquiring additional property for this project, submit a letter to the Department which either (1) stipulates the services relative to right-of-way acquisition, appraisal, relocation, and utilities that the Sponsor will assume or (2) requests that the Department handle some or all of these services. Acquisition of property must be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (commonly referred to as the "Uniform Act"). **NOTE: Failure to notify the Department prior to initiating this phase of work may result in all project expenditures being declared non-participating in federal funds. Please refer to [www.fhwa.dot.gov/realestate/index.htm](http://www.fhwa.dot.gov/realestate/index.htm) if you have any questions.**
2. If no acquisition is required, provide a copy of the recorded deed or an appropriate certification stating the Sponsor's clear and unencumbered title to any right-of-way to be used for the project as shown in Attachment B1. If property has been acquired, see Attachment B2; if the property is being donated see Attachment B3.
3. Be responsible for all engineering costs associated with any changes to the project if the Sponsor fails to acquire the right-of-way or secure easements required for the project under the original scope.
4. After the Department authorizes the Sponsor to advertise the project, advertise for bids in accordance with Federal procedures as shown in Attachment C.
5. After bids are opened and reviewed, submit a certification letter (Attachment D), including all items noted, to the Department and request concurrence in award of the contract. **NOTE; Any costs incurred by the Sponsor prior to receiving the Department's concurrence in award are not eligible for reimbursement.**
6. Submit change orders to the contract to the Department for review and approval prior to execution.
7. The purchase of essential replacement parts during construction is bound by the following conditions;
  - 1) The extra parts shall only be used in the locations approved under the original SRTS project.
  - 2) The cost of the extra parts should be kept to a minimum.
8. Make payments to the contractor for work accomplished in accordance with the plans and specifications and then provide proof of all expenditures to the Department and request reimbursement.
9. Be responsible for the inspection, measurement, documentation, certification of all work in accordance with the plans and specifications for the Project and to retain and maintain for three years after completion all records relating to such inspections, certifications, any billing statements, and any other files necessary to document the performance and completion of the work. Such records shall be retained in accordance with the

requirements of 49 CFR, Subtitle A, Part 18, Subpart C, Section 18.42 - Retention and access requirements for records. See Attachment E. The Contractor and subcontractor(s) shall be monitored for compliance with the provisions of FHWA-1273, Required Contract Provisions, Federal-aid Construction Contracts, and Supplements.

- 10: Be responsible for satisfactory maintenance (including reasonable snow removal efforts from sidewalks and other pedestrian facilities) and for the repair or replacement of any damaged infrastructure. Also be responsible for the proper operation of all improvements and for adopting regulations, ordinances and procedures as necessary to ensure this. Failure to adequately maintain, replace and operate the project in accordance with Federal-aid requirements may result in the Sponsor's repayment of Federal funds and may result in withholding future Federal-aid.
11. Grant the right of access to Sponsor's records pertinent to this project and the right to audit by the Department and Federal Highway Administration officials.
12. Retain total, direct control over the project throughout the life of the improvements and not, without prior approval from the Department:
  - sell, transfer, or otherwise abandon any portion of the project;
  - change the intended use of the project as stated in the approved project application;
  - make significant alterations to any improvements constructed with Federal-aid funds;
  - or
  - cease maintenance or operation of the project due to the project's obsolescence.
13. Promptly notify the Department if the project is rendered unfit for continued use by natural disaster or other cause.
14. Be responsible for 100% of all project costs incurred, including but not limited to design costs, should the project not be completed as specified.
15. Be responsible for 100% of any and all expenditures which are declared non-participating in federal funds, including awards by the State Claims Commission.
16. Construction projects must be advertised for bid within two years of the date of the kickoff meeting or funding will be subject to revocation. If the project is cancelled, the Sponsor will be required to repay to the Department any funds expended for engineering services.
17. Repay to the Department all Federal funds if the Federal Highway Administration removes Federal participation due to actions of the Sponsor, its agents, its employees, or its assigns, or the Sponsor's consultants or their agents. Such actions shall include, but are not limited to, Federal non-participation arising from problems with design plans, construction, change orders, construction inspection, or contractor payment procedures. The Sponsor understands and agrees that the Department may cause necessary funds to be transferred by the Director of the Department of Finance and Administration from any of the Sponsor's funds should the Sponsor fail to pay the Department any required funds, fail to complete the project as specified, or fail to adequately maintain or operate the project.



18. Conduct surveys of affected students to determine modes of school transportation and potential barriers to walking and bicycling. The survey devices will include a one-week classroom oriented session run by school faculty and a take-home survey to be completed with a child's parent. Completed surveys will be turned into the Department for tabulation. Both surveys will be provided by the Department. **Final project reimbursement could be withheld if surveys are not completed.**
19. "The City of Fayetteville does not waive its sovereign statutory immunity, but acknowledges that the City has full legal responsibility for the proper design, construction, maintenance and operation of the project. The City acknowledges that the Highway Department and Highway Commission have no duty or responsibility to users of this City project, and therefore can have no liability related to the design, construction, maintenance or operation of this City project. If the Arkansas Claims Commission ever grants a claim against the Highway Department or Highway Commission for any injury or damage to a person using the project the City of Fayetteville agrees to pay this claim for the Highway Department or Highway Commission."
20. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with Title VI of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, as amended, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation..
21. Comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the Sponsor is appropriate, the Sponsor agrees to comply with any additional instructions provided by the Department to the Sponsor regarding such audit.
22. Complete and submit a Federal Funding Accountability and Transparency Act (FFATA) sub-award report for all awards \$25,000 or greater (Attachment F).

THE DEPARTMENT WILL:

1. Be responsible for administering Federal-aid funds.
2. Provide environmental documentation for the project.
3. Provide plans and specifications and bidding documentation for the project.
4. Upon receipt of the Sponsor's certification of right-of-way (property) ownership, provide the appropriate documentation to the file.
5. Authorize the Sponsor to proceed with advertisement of the project for construction bids.
6. Review bid tabulations and concur in award of the construction contract for the project.
7. Review and approve any necessary change orders for project/program eligibility.
8. Visually verify (insofar as is reasonably possible) that the work meets contract requirements before reimbursement is made to the Sponsor.
9. Reimburse the Sponsor for all eligible construction costs.
10. Provide Sponsors with school transportation surveys to be conducted by the Sponsor and tabulate results of the surveys.

IT IS FURTHER AGREED that should the Sponsor fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure will disqualify the Sponsor from receiving future Federal-aid funds administered by the Department.

IT IS FURTHER AGREED that should the Sponsor fail to pay to the Department any required funds due for implementation of the project or fail to complete the project as specified in this Agreement or fail to adequately maintain or operate the project, the Sponsor hereby authorizes the Director of the Department of Finance and Administration to transfer from any of the Sponsor's State funds to the Department's RRA account such sums as the Director of Highways and Transportation shall certify as due the Department under terms of this Agreement.

ARKANSAS STATE HIGHWAY  
AND TRANSPORTATION  
DEPARTMENT

City of Fayetteville

---

Scott E. Bennett  
Director of Highways and Transportation

---

Signature

---

Printed Name

---

Title

---

Date

**NOTICE OF NONDISCRIMINATION**

The Arkansas State Highway and Transportation Department (Department) complies with all civil rights provisions of federal statutes and related authorities that prohibit discrimination in programs and activities receiving federal financial assistance. Therefore, the Department does not discriminate on the basis of race, sex, color, age, national origin, religion or disability, in the admission, access to and treatment in the Department's programs and activities, as well as the Department's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Department's nondiscrimination policies may be directed to Joanna P. Nelson Section Head - EEO/DBE (ADA/504/Title VI Coordinator), P. O. Box 2261, Little Rock, AR 72203, (501) 569-2298, (Voice/TTY 711), or the following email address:  
joanna.nelson@arkansashighways.com.

This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.

**AGREEMENT OF UNDERSTANDING  
FOR AN INFRASTRUCTURE PROJECT  
BETWEEN**

**CITY OF FAYETTEVILLE**

**AND**

**THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT**

In Cooperation with the  
U. S. Department of Transportation  
Federal Highway Administration

RELATIVE TO

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WHEREAS, the Sponsor knows of no legal impediments to the completion of the Project; and

WHEREAS, it is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions of any part of the agreement to create the public or any member thereof a third party beneficiary hereunder or to authorize anyone not a party to this agreement to maintain a suit or action for injuries or damage of any nature pursuant to the terms or provisions of this agreement; and

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8. Make payments to the contractor for work accomplished in accordance with the plans and specifications and then provide proof of all expenditures to the Department and request reimbursement.
9. Be responsible for the inspection, measurement, documentation, certification of all work in accordance with the plans and specifications for the Project and to retain and maintain for three years after completion all records relating to such inspections, certifications, any billing statements, and any other files necessary to document the performance and completion of the work. Such records shall be retained in accordance with the

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6. Review bid tabulations and concur in award of the construction contract for the project.
7. Review and approve any necessary change orders for project/program eligibility.
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ARKANSAS STATE HIGHWAY  
AND TRANSPORTATION  
DEPARTMENT

City of Fayetteville

\_\_\_\_\_  
Scott E. Bennett  
Director of Highways and Transportation

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**NOTICE OF NONDISCRIMINATION**

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joanna.nelson@arkansashighways.com.

This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.



# City of Fayetteville 2013 Safe Routes to School Grant Application Location



317 Ft. of City Financed and Constructed Sidewalk 2013

SRTS Sidewalk Grant Application

Holcomb Elementary School

Future Clabber Creek Trail Extension 2016

Holt Middle School

**Legend**

**Existing Sidewalks**

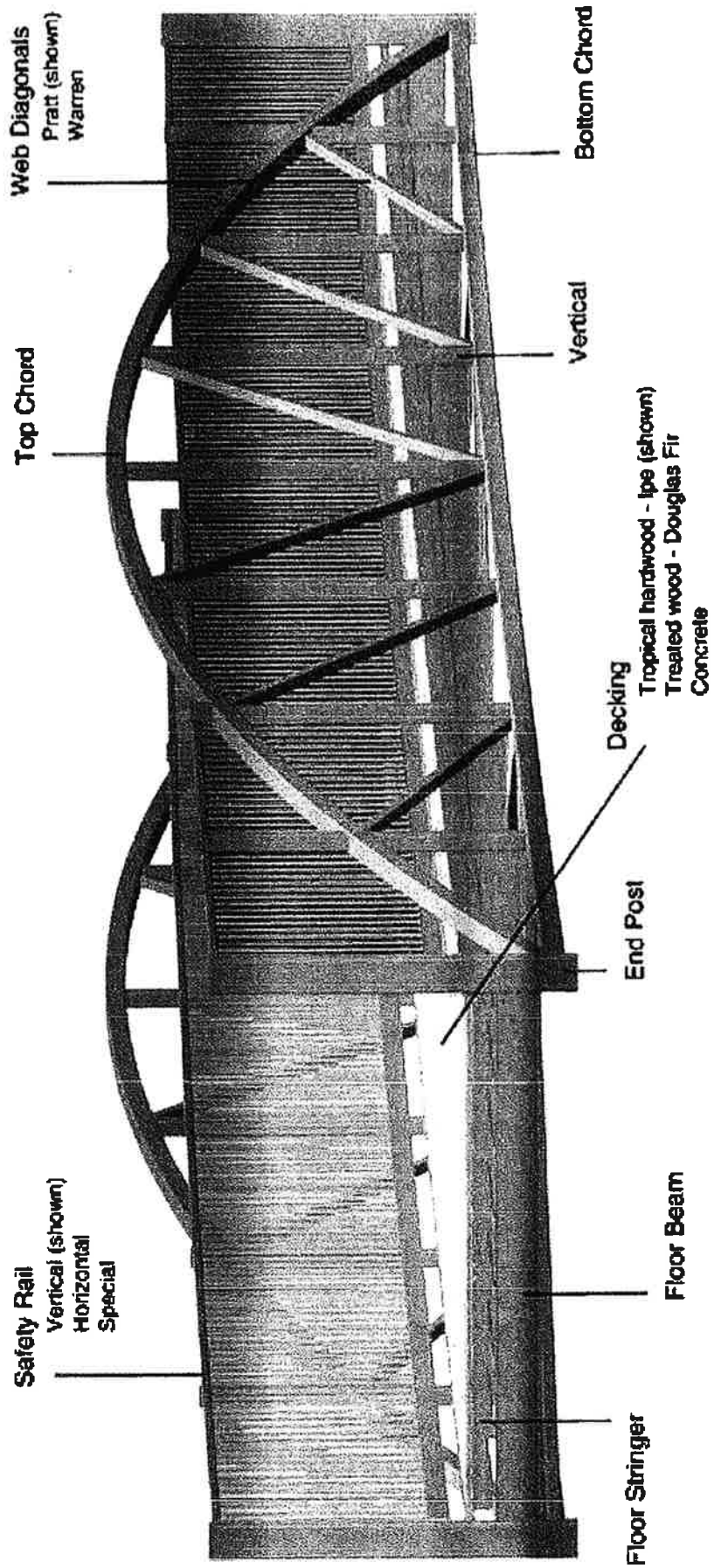
- <all other values>

**CLASS**

- Corner Crossing
- ⋯ Other Crosswalk
- ⋯ Painted Crosswalk
- Sidewalk
- Multi-Use Trail (Existing)
- Future Trails
- Street







**RESOLUTION NO. 29-13**

A RESOLUTION TO APPROVE AND SUPPORT A GRANT APPLICATION TO THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT IN THE AMOUNT OF \$81,248.00 FOR PARTIAL FUNDING FOR THE CLABBER CREEK TRAIL BRIDGE ALONG SALEM ROAD AS PART OF THE SAFE ROUTES TO SCHOOLS PROGRAM

**WHEREAS**, the City Council of the City of Fayetteville, Arkansas strongly supports the Safe Routes to Schools Program and requests that the Arkansas State Highway and Transportation Department approve grant funding in the amount of \$81,248.00 to construct a portion of the Clabber Creek Trail Bridge along Salem Road to connect neighborhoods in the area of Holcomb Elementary School and Holt Middle School,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to execute all appropriate agreements and contracts necessary to expedite the construction of the above-stated project.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves and supports the Sustainability and Strategic Planning Department's application to the Arkansas State Highway and Transportation Department for a grant in the amount of \$81,248.00 through the Safe Routes to School Program to fund a portion of the construction costs of the Clabber Creek Trail bridge along Salem Road to provide safe pedestrian access from adjacent neighborhoods to Holcomb Elementary School and Holt Middle School.

**PASSED** and **APPROVED** this 19<sup>th</sup> day of February, 2013.

APPROVED:

By:

  
LIONELD JORDAN, Mayor

ATTEST:

By:

  
SONDRA E. SMITH, City Clerk/Treasurer

